

Nicaragua

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Constitutional reforms first introduced in late 2013 became law in February 2014. The 97 amendments to Nicaragua's constitution covered a wide variety of issues, ranging from the definition of the country's borders to account for a recent International Court of Justice ruling, to the establishment of rights to participatory democracy, including referendums. Most of the attention, however, has focused on electoral reforms and powers granted to the president. The legislative dominance of the Sandinista National Liberation Front (FSLN) enabled it to pass the amendments, which critics argue are intended to consolidate the party's control over governmental institutions.

Concerns about the lack of transparency and consultation over a transoceanic canal across Nicaragua grew as the project broke ground in late December 2014. Despite these controversies, popular support for President Daniel Ortega remained high, while the opposition withered.

Political Rights and Civil Liberties:

Political Rights: 19 / 40 [Key]

A. Electoral Process: 6 / 12

The constitution provides for a directly elected president and a 92-member unicameral National Assembly. Two seats in the legislature are reserved for the previous president and the runner-up in the most recent presidential election. Presidential and legislative elections are both held every five years. Constitutional reforms that went into effect in 2014 eliminated the minimum vote percentage required to win a first-round presidential victory—formerly 35 percent—provided the top candidate leads by at least five percentage points. Presidents will now be elected with a simple plurality of the vote. The reforms also mandate that half of all candidates for elected office be women.

President Daniel Ortega was reelected in November 2011 following a series of contentious preelectoral developments. Ortega, who had been banned from seeking reelection under a constitutional provision limiting the president to two nonconsecutive terms, petitioned the Supreme Court in 2009 to allow reelection on the basis that the ban was not in line with the original constitution. The Sandinista-controlled court ruled in favor of Ortega and FSLN mayors who were also parties to the suit. Although the ruling did not amend the constitution, a new law passed in 2014 has eliminated presidential term limits.

Ortega won the presidential election in November 2011 with almost 63 percent of the vote, followed by Fabio Gadea Mantilla of the Nicaraguan Unity for Hope (UNE) coalition with 31 percent and former president Arnoldo Alemán of the Conservative Party–Liberal Constitutionalist Party (PLC) alliance with almost 6 percent. In the legislative elections, the FSLN won 63 seats in the National Assembly, followed by the Independent Liberal Party

(PLI) with 27 and the PLC with 2. Although international observation teams noted irregularities and a lack of transparency, there was no conclusive evidence of fraud. Observers did, however, report issues with the distribution of voting cards and the voter registry, as well as difficulty accessing polling places and concerns about the composition of electoral boards. Both Gadea and Alemán denounced the outcome of the election and refused to recognize the results. Several protesters were killed and dozens of police officers were injured in postelection violence between supporters of the government and the opposition.

In May 2012, the National Assembly approved numerous changes to the municipal electoral law, including a provision allowing mayors to run for reelection and instating a requirement that half of each party's candidates for mayor and council seats be women. In municipal elections held in November 2012, opposition parties and observer groups noted irregularities in the electoral process, including outdated voter rosters, the presence of "phantom" parties and candidates, voters being turned away at the polls, and repeat voters.

Nicaragua's North Atlantic Autonomous Region (RAAN) and South Atlantic Autonomous Region (RAAS) have regional councils, for which elections were held in March 2014. The FSLN won 52 percent of the votes in RAAN, followed by YATAMA with 21 percent, the PLI with 19 percent, and the PLC with 4 percent. In the RAAS, the FSLN garnered 48 percent of the vote, followed by the PLC with 19 percent, the PLI with 17 percent, YATAMA with 7 percent, and the PIM with 3 percent. YATAMA supporters organized a few minor protests following the vote.

B. Political Pluralism and Participation: 7 / 16

The formerly dominant PLC has experienced a sharp decline in support since 1999, while support for the FSLN has increased. Public opinion polls consistently reveal a high level of support for Ortega and the FSLN. In May 2014, a poll found that combined support for all opposition parties was less than 10 percent.

The FSLN's majority in the National Assembly enables it to pass laws without requiring support from opposition parties. In 2013, opposition leaders in the National Assembly and several social movements formed UNIR as an anti-FSLN alliance. The group pledged to fight the "Ortega dictatorship" and to work together to promote popular participation and develop an agenda for the nation. In August 2014, the PLI and PLC signed a pact in hopes of launching a unified opposition for the 2016 elections. As a result of the 2014 constitutional reforms, legislators who do not vote with their party may lose their seats in the legislature.

Minority groups, especially the indigenous inhabitants of Nicaragua's eastern and Caribbean regions, frequently complain that they are politically underrepresented and that the government and the FSLN largely ignore their grievances.

C. Functioning of Government: 6 / 12

In January 2010, Ortega decreed that appointed officials could remain in their posts until the National Assembly selects replacements, even if that occurs after the end of their terms. The struggle over these appointments sent Nicaragua into a political crisis that year, as members of the National Assembly were unable to achieve the majority necessary to select replacements. In keeping with Ortega's decree, many officials remained in their posts after their terms expired in June 2010. The issue was finally resolved in April 2014, when elections were held for officials with expired terms. The National Assembly elected 54 officials in total, including Supreme Court justices, members of the Supreme Electoral Council, and others in high ranks.

Several of the 2014 constitutional reforms could potentially have a direct impact on the functioning of the government. These include the ability of the president to issue binding decrees or to appoint active military personnel to executive-level positions previously designated for civilians, and to direct changes in tax policy without legislative approval.

Nicaragua was ranked 133 out of 175 countries and territories surveyed in Transparency International's 2014 Corruption Perceptions Index. While still problematic, according to a recent Latin American Public Opinion Project (LAPOP) study, in 2014 Nicaragua had the lowest incidence of petty corruption in Central America after El Salvador, with approximately 15 percent of the population reporting that they were victims of corruption. Corruption charges against high-ranking government officials are still rare except in the most egregious cases, and corruption cases against opposition figures are often criticized for being politically motivated.

The 2007 Law on Access to Public Information requires public entities and private companies doing business with the state to disclose certain information. However, it preserves the government's right to protect information related to state security. Concerns about the transparency of aid from the Venezuela-led Bolivarian Alliance for the Peoples of Our America, of which Nicaragua is a member, persisted in 2014.

The public consultation process leading up to the initial passage of the constitutional changes in 2013 represented a modest improvement on the government's previous practices, though independent observers and members of the opposition noted a number of flaws. Significant concerns have also been raised over the lack of transparency and consultation in the proposed interoceanic canal across Nicaragua, which was approved quickly and with little public debate. Environmental studies detailing the human and environmental toll have been kept from the public.

Civil Liberties: 35 / 60

D. Freedom of Expression and Belief: 12 / 16

The constitution calls for a free press but allows some censorship. Radio remains the main source of information. Six television networks, including a state-owned network, are based in the capital, many of which favor particular political factions. Three national newspapers

cover a variety of political viewpoints, though coverage is polarized. The Communications and Citizenry Council, which oversees the government's press relations and is directed by First Lady Rosario Murillo, has been accused of limiting access to information and censoring the opposition. Access to the internet is unrestricted.

The press has faced increased political and judicial harassment since 2007, and the Ortega administration engages in systematic efforts to obstruct and discredit media critics. Journalists, including several reporters with the newspaper *El Nuevo Diario*, have received death threats. A reported 60 journalists participated in a July 2014 protest in which they demanded improved police protection from threats issued by FSLN sympathizers. Canal 12 cameraman Xavier Castro and Canal 2 reporter Edgardo Trejos were both attacked outside of government buildings in July. Members of the ruling elite have acquired stakes in media outlets and have used their influence as owners to sideline independent journalists.

Religious and academic freedoms are generally respected, although some university-level academics refrain from open criticism of the government.

E. Associational and Organizational Rights: 6 / 12

Nicaraguan law recognizes freedoms of assembly and association, but in practice the observation of these rights has been problematic. While public demonstrations are generally permitted, members of the opposition have accused the police of failing to protect demonstrators and of engaging in partisan behavior. Gangs with tacit government support have reportedly attacked antigovernment protesters. In December 2014, numerous protesters in the proposed canal zone were injured and arrested during altercations with police officers, some of whom were also harmed in the protests. Human rights groups have claimed that some protesters were beaten or otherwise mistreated while in police custody.

Although nongovernmental organizations are active, they have faced harassment and occasional violence in recent years. They have also been weakened by the system of Citizens' Power Councils (CPCs), which operate from the neighborhood to the federal level. The CPCs were established by the Ortega administration in 2007 to promote direct democracy and participation in the government's Zero Hunger food-production project, but critics say they blur the line between state and party institutions, and that they are highly politicized.

The FSLN controls many of the country's labor unions, and the legal rights of non-FSLN unions are not fully guaranteed. Although the law recognizes the right to strike, unions must clear a number of hurdles, and approval from the Ministry of Labor is almost never granted. Employers sometimes form their own unions to avoid recognizing legitimate organizations. Employees have reportedly been dismissed for union activities, and citizens have no effective recourse when those in power violate labor laws.

F. Rule of Law: 7 / 16

The judiciary remains dominated by FSLN and PLC appointees, and the Supreme Court is a largely politicized body controlled by Sandinista judges. The court system also suffers from corruption, long delays, a large backlog of cases, and a severe shortage of public defenders. Access to justice is especially deficient in rural areas and on the Caribbean coast.

Despite long-term improvements, the security forces remain understaffed and poorly funded, and human rights abuses still occur. Forced confessions and arbitrary arrests are problems. Although Nicaragua has generally been spared the high rates of crime and gang violence that plague its neighbors to the north, the country—specifically the Caribbean coast—is an important transshipment point for South American drugs. The police have been active in combating trafficking and organized crime.

Prison conditions are poor and overcrowding is a problem. In 2014 the Nicaraguan government used more than \$6 million of seized drug money to open three new prison facilities.

January 2014 changes to the military code gave the army a role in internal security at the discretion of the president, further concentrating power under the executive. In June, the legislature passed a new law that restructured the National Police, allowing the president to appoint and extend the terms of the body's director, extending service eligibility, and permitting members of the National Police to engage in political campaigning and political party activity.

The constitution and laws nominally recognize the rights of indigenous communities, but those rights have not been respected in practice. Approximately 5 percent of the population is indigenous and lives mostly in the RAAN and the RAAS. In 2012, the Nicaraguan constitution was translated into Miskito and Mayangna, the languages most commonly spoken in these areas.

Same-sex marriage and civil unions remain barred in Nicaragua, and the country's LGBT (lesbian, gay, bisexual, and transgender) population is subject to intermittent threats and discriminatory treatment. In 2014, the National Assembly adopted a Family Code that defines "family" as a union between a man and a woman. A resolution approved in August 2014 prohibits discrimination in health service provision based on sexual identity, though few steps have been taken toward implementation.

G. Personal Autonomy and Individual Rights: 10 / 16

Governmental and nonstate actors generally respect travel, residence, and employment choices. Property rights are protected on paper but can be tenuous in practice. Titles are often contested, and individuals with connections to the FSLN may enjoy an advantage during property disputes. The 2013 canal deal prompted critics to worry that the highly favorable terms would lead to unfair land confiscations and evictions. In August 2014, property owners in the proposed canal zone complained that they felt intimidated, sometimes with violence, by surveyors accompanied by army and police. Indigenous groups

and farmers have raised concerns that they would be negatively impacted by the proposed canal.

In 2014, Nicaragua was ranked 6 out of 142 countries surveyed in the World Economic Forum's *Global Gender Gap Report*, indicating that its gender-based disparities are among the smallest in the world. However, violence against women and children, including sexual and domestic abuse, remains widespread and underreported; few cases are ever prosecuted. The 2012 Comprehensive Law Against Violence Toward Women addresses both physical and structural forms of violence, and recognizes violence against women as a matter of public health and safety. The legislation—which codified femicide as a crime—also establishes sentencing guidelines for physical and psychological abuses against women. Opponents of the law claimed that its prohibition on mediation between female victims and their abusers was unconstitutional. Religious officials also expressed concern that the bill would lead to the disintegration of the family. In 2013, the Supreme Court ruled that the law was constitutional, but sent a proposal to the National Assembly that the law be amended to allow mediation. The National Assembly passed the reforms despite concerns from rights groups. In July 2014, the executive branch published regulations for the law, which clarified that femicide occurs when there is a relationship between the perpetrator and the victim.

Abortion is illegal and punishable by imprisonment, even when performed to save the mother's life or in cases of rape or incest. Scores of deaths stemming from the ban have been reported in recent years.

Human trafficking is a significant issue in Nicaragua, which serves as a source country for women and children forced into prostitution. A 2010 law classifies human trafficking as a form of organized crime. As of 2014, Nicaragua remained a Tier 1 country in the U.S. State Department's *Trafficking in Persons Report*, which stated that trafficking remains pervasive despite laudable law enforcement efforts to reduce the practice. The report also noted that efforts to combat human trafficking were more feeble on the Atlantic Coast, where institutions are weaker and crime is more prevalent.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology